



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RMT/JN/DG
F. # 2012R00103

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March 15, 2018

By ECF, Email and FedEx

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Re: United States v. Vitaly Korchevsky
Criminal Docket No. 15-381 (RJD)

Dear Counsel:

Pursuant to Rule 16(a)(1)(G) of the Federal Rules of Criminal Procedure and Rule 702 of the Federal Rules of Evidence, the government hereby notifies you that, at the trial in the above-referenced matter, the government plans to call the below listed witnesses as experts. The government reserves the right to substitute these experts with other expert witnesses, and will timely advise the defense of any changes in witnesses.

Eugene Canjels.¹ Dr. Canjels holds the position of Assistant Director in the Division of Economic and Risk Analysis at the United States Securities and Exchange Commission ("SEC"). Enclosed please find Dr. Canjels' curriculum vitae, bearing Bates-numbers VK-000255461-63. Dr. Canjels is expected to testify about: (1) his analysis of the trading activity of the defendants and their coconspirators Arkadiy Dubovoy, Igor Dubovoy, Alexander Garkusha and Leonid Momotok in and around the charged time period (February

¹ The government previously provided Mr. Korchevsky with notice on February 3, 2017 that it planned to call Mr. Canjels as an expert witness at trial. In an abundance of caution, the government hereby notifies both Mr. Korchevsky and Mr. Khalupsky of its intent to call Mr. Canjels as an expert witness. The government further notes that subject to the stipulations governing the "Canjels Analysis Drafts," signed by the parties on July 13, 2017 and August 11, 2017, the government previously provided counsel for the defendants drafts of Mr. Canjels analysis, which will serve as the basis for his testimony.

2010 to August 2015); (2) his conclusion that certain of the trading during the charged time frame was based on the receipt of company press release information in advance of the press releases' public dissemination; (3) the correlation between the defendants' trading activities and that of their coconspirators; and (4) the defendants' and their coconspirators' profits as a result of trading based on information in company press releases obtained before those releases were publicly disseminated.

Thomas I. Carocci.² Mr. Carocci serves as an attorney with the Financial Industry Regulatory Authority's ("FINRA") Criminal Prosecution Assistance Group. He has been in that position since 2008 and provides assistance on criminal investigations and prosecutions. Enclosed please find his curriculum vitae, bearing Bates-numbers VK-000255464-65. Mr. Carocci is expected to testify about: (1) FINRA's role in regulating the trading of stocks of publically traded companies; (2) general securities industry terms; (3) disclosure requirements of publicly traded companies registered with the SEC; (4) documents required to be filed with the SEC to comply with such disclosure requirements; and (5) types of trading, including particular trades that were executed based on material non-public information. In addition, Mr. Carocci is expected to testify as a summary witness in connection with specific trades executed by the defendants and their co-conspirators.

Computer Forensics Experts.³ The government anticipates seeking to admit expert testimony from multiple witnesses with expertise in computer programming, computer forensics and information technology security to testify regarding the methods by which members of the conspiracy gained unauthorized access to, and unlawfully exfiltrated data from, victim newswire computer systems. In sum and substance, we expect those experts to testify that hackers gained unauthorized access to the victim newswire systems, at least in part, through the use of stolen or otherwise misappropriated log in credentials (usernames and passwords). We also expect the experts to testify about the approximate time periods in which the different victim newswires' computer systems were compromised. Further details about the forensic investigations into the victim newswires' systems are set forth in previously disclosed forensic reports, as well as the materials disclosed on this date, discussed in more detail below. The expected witnesses are described below:

- Bret Padres. Mr. Padres is currently the Chief Executive Officer of the Crypsis Group ("Crypsis"), and has been since January 2017. Crypsis serves in a consulting

² The government previously provided Mr. Korchevsky with notice on February 3, 2017 that it planned to call Mr. Carocci as an expert witness at trial. In an abundance of caution, the government hereby notifies both Mr. Korchevsky and Mr. Khalupsky of its intent to call Mr. Carocci as an expert witness.

³ The government previously provided Mr. Korchevsky with notice on February 3, 2017 that it planned to call computer forensic experts. It now supplements its previous notice and provides notice to Mr. Khalupsky.

role and conducts digital forensic investigations in response to data breaches, among other consulting work. Mr. Padres works directly with companies and their legal teams to investigate, remediate and advise on issues resulting from data breaches. Prior to joining Crypsis, Mr. Padres worked at Stroz Friedberg (“Stroz”) from February 2008 until December 2016. When Mr. Padres left Stroz, he was a Managing Director. While at Stroz, Mr. Padres managed the Cyber Resilience practice, which involved conducting cybercrime investigations, including network intrusion investigations and investigations of hacks, security risk assessments and data breach responses, among other things. Mr. Padres led Stroz’s specialized malware analysis team and performed malware analysis on unknown or suspicious binaries to determine malicious capabilities, encoding mechanisms and indicators of compromise. Prior to joining Stroz, from April 2006 until February 2008, Mr. Padres worked at Mandiant as a director of incident response, which involved oversight of computer forensic examiners and incident responders. Mr. Padres’ responsibilities while at Mandiant included responding to and resolving high-risk intrusions at government agencies and Fortune 500 companies. Mr. Padres conducted numerous complex computer forensic examinations in support of both civil and criminal litigation. Mr. Padres also held a number of other positions prior to joining Mandiant, as described in his curriculum vitae, attached hereto, bearing Bates numbers VK-000255467-73. Notably, while at Stroz, Mr. Padres worked for PR Newswire (“PRN”), which is one of the victim newswires, in analyzing the intrusion into their computer systems related to the hacking activity in the instant case. As discussed directly above, the government intends to call Mr. Padres to testify regarding his analysis of the intrusion into the PRN computer systems both during his time at Stroz working for PRN, and after being retained by the government while the CEO of Crypsis. Mr. Padres will testify regarding relevant forensic findings as set forth in materials previously provided to the defense on January 30, 2017, May 30, 2017 and June 29, 2017.

- James Gimbi. Mr. Gimbi was until recently employed by Mandiant, and is currently serving as a Congressional Innovation Fellow. While working at Mandiant, he performed breach investigations and guided cyber strategy for clients in government and the Global 500, spanning defense, finance, healthcare, professional services and other industries across four continents. He produced the Security Operations Center for a top Asia-Pacific bank and reviewed the DHS National Cyber Incident Response Plan. Mr. Gimbi developed and taught security courses for federal law enforcement, conferences and private clients. He holds a Bachelor of Science with honors from the Rochester Institute of Technology (RIT) in information security and forensics. At RIT, he published research on covert channels, studied politics, and worked co-ops with Mandiant, BOCES and Cisco Systems. As discussed above, the government intends to call Mr. Gimbi to testify regarding his analysis of the intrusion into the computer systems of Marketwired, which is one of the victim newswires. The principal findings from that analysis were memorialized in the Mandiant reports

produced to the defense on March 6, 2017. Mr. Gimbi's curriculum vitae is enclosed herewith, bearing Bates number VK-000255466.

- Business Wire. As discussed above, the government also anticipates calling a computer forensics expert to testify regarding the intrusion into the computer systems of Business Wire, which is one of the victim newswires. Further information regarding that witness will be disclosed at a later date. However, enclosed herewith on a CD, bearing Bates number VK-000255460, are additional forensic reports and related materials regarding analysis that was conducted on Business Wire's computer systems. Please note that these materials are being produced to the defense subject to the protective order entered by the Court on January 5, 2016. This production supplements the government's March 6, 2017 production regarding that analysis.

Sergey Kalman.⁴ Mr. Kalman is a linguist for the Federal Bureau of Investigation ("FBI"). He has been employed with the FBI since February 2004. Mr. Kalman is an FBI certified Russian and Ukrainian translator. He also has native proficiency in both languages, and a working knowledge of Polish. Mr. Kalman has completed numerous specialized training programs for linguists:

- New linguist training in 2004;
- COHORT/LAST and 1/LAST2 programs, 2005-2006;
- Consecutive interpretation trainings by Monterey Institute of International Studies (Graduate School of Middlebury College), 2009-2014;
- Cyber training for language professionals (latest completion in 2018).

Mr. Kalman has served as an interpreter for FBI Special Agents and U.S. Attorney's Offices on many occasions, including for operational needs, training, high-level meetings and investigations. Mr. Kalman has previously testified once in a criminal case. Mr. Kalman is expected to testify in his capacity as a linguist in order to admit into evidence the translations of the communications exchanged between the defendants and co-conspirators. The draft translations were previously produced to the defendants on March 1, 2018.

⁴ The government previously provided Mr. Korchevsky with notice on February 3, 2017 that it planned to call linguistic experts. It now supplements its previous notice and provides notice to Mr. Khalupsky. The government reserves the right to call additional expert linguists, to the extent necessary, and will disclose the identity of any such additional expert witnesses and further information.

As stated above, the government reserves the right to call substitute expert witnesses, as well as to call additional expert witnesses, and will provide advance notice of any intent to do so.

Very truly yours,

RICHARD P. DONOGHUE
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Enclosures

cc: Clerk of the Court (RJD) (by ECF (w/o enclosures))